



**FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA)
FEDERAL INSURANCE MITIGATION ADMINISTRATION (FIMA)
APPEAL DECISION**

FEMA Flood Insurance Appeal Decision #C20

SUMMARY

The policyholder appealed the flood insurance carrier's (hereinafter "insurer") partial denial of a claim under the Standard Flood Insurance Policy (SFIP)¹ for damages to her property arising on December 2019.

The policyholder files this appeal under 44 C.F.R. § 62.20. The appeals process is available after the insurer issues a written denial, in whole or in part, of the policyholder's claim.²

After reviewing the issues, evidence, and relevant authorities, FEMA affirms the insurer's decision.

BACKGROUND

COVERAGE

The policyholder insures property under the SFIP Dwelling Form. At the time of loss, the policyholder had \$237,600 of building coverage and \$21,000 of personal property coverage.

EVENT AND CLAIM FACTS

Heavy rainfall in the area caused pooling and accumulation resulting in flood.

Following the loss, the policyholder filed a claim for damage with the insurer and the insurer assigned an adjuster to inspect the property. The insured property is described as a single-family one story-story building constructed on a concrete slab on grade foundation. The adjuster inspected the property on December 2019, and confirmed a general and temporary condition of flood existed on the property. The adjuster measured a 17-inch waterline on the exterior of the building and a two-inch waterline on the interior of the dwelling. The policyholder told the adjuster floodwater remained on the property for nine hours before receding.³ The adjuster noted the prior owner reported a flood loss occurred on December

¹ See 44 C.F.R. § 61.13 (2019); Dwelling Form available at 44 C.F.R. pt. 61 App. A(1) [hereinafter "SFIP"].

² The policyholder's appeal and related documents concerning the appeal, claim, or policy are on file with FEMA, Federal Insurance and Mitigation Administration, Federal Insurance Directorate, Policyholder Services Division, Appeals Branch [hereinafter "Appeal File"].

³ See Appeal File, Preliminary Report.

2009. The insurer paid the prior owner \$51,379.09 for flood damage from the December 2009 flood event.

The adjuster reviewed photographs from the prior loss and compared them to the current damage. The adjuster concluded the prior owner did not make repairs to the property other than changing the interior doors and one exterior door. Photographs of the kitchen lower cabinets and wall cabinets are the same, as are the tile walls in the master bathroom, guest bathroom, and rear bathroom. The vanity in the master bathroom is the same, indicating that the walls were not replaced. The adjuster estimated for damage that was due to the most recent loss, and not from the prior 2009 loss. The insurer reviewed and accepted the adjuster's recommendation.

The insurer issued the policyholder payments totaling \$9,803.17 for building damage and \$6,250.87 for damage personal property. In a letter dated February 2020, the insurer denied coverage for drywall, textured paint, baseboard, bathroom wall tiles, vanity, and lower kitchen cabinets as these items were damaged in the 2009 loss, and never repaired or replaced.

On March 2020, the policyholder appealed the denial in a letter to FEMA.

ISSUES

The policyholder is appealing the denial of building items damaged in the previous December 2009 loss for which repairs were not completed before the December 2019 flood event.

RULES

The insurer agrees to pay the policyholder for direct physical loss by or from flood to covered property, provided the policyholder complied with all terms and conditions of the SFIP.⁴

The SFIP requires that policyholders provide evidence that prior flood damage has been repaired.⁵

The SFIP requires the policyholder provide a signed and sworn-to proof of loss and all bills, receipts, and related documentation fully supporting the amount claimed within 60 days of the date of loss.⁶

ANALYSIS

On appeal, the policyholder requests coverage for damaged building items denied as not repaired or replaced prior to the flood event. The policyholder writes that she purchased the property from the previous owner after the prior 2009 loss and should not be held responsible for unrepaired previous damage.

⁴ See SFIP (I), (II)(B)(12).

⁵ See SFIP (VII)(K)(2)(e).

⁶ See SFIP (VII)(J)(3)-(5).

The SFIP provides coverage for direct physical loss by or from flood to covered property. The SFIP requires the policyholder to submit documentation fully substantiating prior flood damage has been repaired or replaced.

Here, the adjuster reported that there was no evidence that repairs or replacement of several items from the prior loss occurred. The adjuster noted that the drywall, textured paint, baseboard, bathroom wall tiles, bathroom vanities, and lower kitchen cabinets had not been repaired or replaced. The policyholder could not provide evidence that repairs or replacements from the 2009 flood event were made prior to the 2019 flood. Without proof that these repairs were made before the 2019 loss, the insurer cannot provide payment for the same unrepaired damage. If repairs, in whole or in part, were completed, the policyholder must provide to the insurer paid receipts and invoices along with photographs of the repairs to further support the claim. Although a different owner of the property received a payment for repairing or replacement of those items and apparently, did not repair or replace several items, the policyholder on the date of this flood event is required to provide proof of repair or replacement. Duplicate payments are not allowed by the SFIP for the same flood loss. FEMA's review agrees the insurer correctly applied the SFIP in denying coverage for items that had been damaged in a previous flood for which the previous policyholder received payment and the current policyholder did not provide evidence of repair or replacement.

After the appeal, the policyholder submitted additional photographs supporting replacement of the base trim and bathroom vanities, to detach and reset the counter tops, clean and regrout tile flooring, and texture paint the walls. The insurer re-evaluated the claim and on May 2020, issued an additional payments of \$14,926.98 and \$689.17 for building damage. The policyholder could not verify repair or replacement of the lower kitchen cabinets or plaster walls and therefore cannot receive reconsideration for payment of this damage.

While not unsympathetic to the policyholder's circumstances, FEMA finds the insurer properly applied the SFIP in denying payment for the unrepaired and unreplaced property from the prior loss. The policyholder may research the state laws regarding the disclosure requirements for real estate transactions to ensure they were properly informed of previous damage and the extent of any repairs. FEMA does not have authority to investigate such matters. Additionally, If the policyholder is in contact with the former owner, FEMA suggests requesting evidence of said repaired and replaced building property from them and submit the information to the insurer for further consideration.

FEMA's review concurs with the insurer's decision to deny coverage for the plaster walls and lower kitchen cabinets damaged in the previous loss and unrepaired.

CONCLUSION

Based on the facts and analysis above, FEMA concurs with the insurer's decision to deny payment for the plaster walls and lower kitchen cabinetry damaged in the previous December 2009 loss and unrepaired before the subsequent December 2019 flood event.